IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

CRL.A.No. 1704 of 2006()

AGAINST THE JUDGEMENT/ORDER IN CRLP.368/2006
CC.248/2004 of JUDL.MAGISTRATE OF FIRST CLASS-III, KOTTAYAM

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APPELLANT: COMPLAINANT

VIJAY FINANCE,
REP. BY ITS PROPRIETOR,
A.VENKARAMAN POTTI, KOUSTHUBHAM,
PUTHIYA THRIKKOVIL, KOTTAYAM.

BY ADV. SRI.JAMES KURIAN

RESPONDENTS: STATE AND ACCUSED

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1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. SURENDRAN.N.K.,
NIRIYAN THARAYIL,
KARIPPUTHATTU, ARPOOKKARA.

BY ADV. SMT.SANDHYA RAJU
BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 13/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

Criminal Appeal No. 1704 of 2006

Dated this the 13th February, 2007.

J U D G M E N T

The appellant is before this Court, after obtaining leave, challenging the dismissal of the complaint and acquittal of the accused, second respondent, in C.C.No.248/2004, on the file of the Judicial First Class Magistrate Court-III, Kottayam. The learned Magistrate, stating that the complainant being absent, and no pleader represented, dismissed the complaint, and consequently acquitted the accused.

2. The only plea of the counsel for the appellant is that there was a mistake on the part of the lower court advocate in noting the date and appearing at the appropriate time.

3. After considering the facts that are placed before me, I set aside the impugned order, dated 15.12.2004, and restore C.C.No.248/2004, to the file of the Judicial First Class Magistrate Court-III, Kottayam.

4. The parties shall appear before the court below on 13.3.2007.

5. The case being of the year 2004, the learned Magistrate shall dispose of the same, at the earliest, giving priority, and in any case, within two months from the date of appearance of the parties.

Crl.Appeal is allowed accordingly.

J.M. JAMES,
JUDGE

nj.